IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

S.B. CIVIL REVISION PETITION NO.68/2006

Bhairon Lal

Vs.

Civil Judge [Jr.Div.], Kotputli & Ors.

DATE OF ORDER :: 06/11/2006

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Shailesh Prakash Sharma, for petitioner
Mr. Ravi Shanker Sharma] for respondents
Mr. V.S. Yadav]

With the consent of parties, the present revision petition is finally disposed of at the admission stage.

Instant revision petition has been filed by the defendant-petitioner against the order dated 31st March, 2006 whereby his application filed under O.7 R.11 CPC was rejected by the learned trial Judge.

Plaintiff-respondent filed a suit for permanent injunction against the defendant-petitioner on various grounds. After service of notice of plaint, the defendant-petitioner filed written statement and raised preliminary objection that the suit for permanent injunction filed is in relation to an agricultural land, of which reference has been made in the plaint, which can only be adjudicated before the competent Revenue Court and the Civil Court has no jurisdiction. Learned trial Judge framed issue No.6 in this regard. After filing of written statement, the defendant-petitioner further filed application under O.7 R.11 CPC with an objection that the Civil Court has no jurisdiction to

try the suit, since the land in question is an agricultural land, proceeding can only be initiated before the Revenue Court.

Learned trial Judge after hearing counsel for parties rejected application filed under O.7 R.11 CPC by defendant-petitioner vide order impugned dated 31st March, 2006 and observed that the objection raised is a mixed question of law and fact which can be decided after parties led their evidence.

With respect to jurisdiction of the Civil Court in entertaining the suit, specific issue No.6 has been framed. Since this issue goes to route of the matter and looking to the nature of controversy, it will be in the interest of both the parties that issue in respect of jurisdiction be decided first at the preliminary stage.

Accordingly, the revision petition is disposed of with the direction that issue No.6, which relates to jurisdiction of the Civil Court, be decided first as a preliminary issue.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.